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OFFICE OF PETITIONS

In re Application of
Michael H. Goff
Application No. 10/734,633
Filed: December 15, 2003
Attorney Docket No. FRA3320

DECISION ON PETITION

This is decision on the renewed petition under 37 CFR 1.181, filed March 20, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 25, 2005, the Office mailed a Notice of Allowability, which set a statutory period of three months to submit corrected drawings. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on November 21, 2005.

In the present petition, petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner mailed corrected drawings to the USPTO with the Notice of Allowance and a certificate of mailing on August 22, 2005. With the petition, petitioner submitted one sheet of corrected drawings and a copy of the certificate of mailing dated August 22, 2005, which listed the following items: the application number, "2 pages NOA, 1 check, 1 page Corrected Drawings."

A review of the record indicates that the USPTO received a Fee(s) Transmittal and a copy of the Notice of Allowance on August 25, 2005; however, the file does not contain any corrected drawings. Therefore, petitioner is relying on the certificate of mailing as evidence of the timely filing of the corrected drawings on August 22, 2005.

Pursuant to Section 711.03(c)(I)(B) of the Manual of Patent Examining Procedure:

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely

mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application).

In the present petition, petitioner provided a statement under 37 CFR 1.8(b)(3) by Jason Wormstadt, attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing.

Accordingly, the petition to withdraw the holding of abandonment is **granted**. The application will return to pending status.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

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